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Attorneys for Defendants

JPMORGAN CHASE BANK, N.A. AN ACQUIRER OF
CERTAIN ASSETS AND LIABILITIES OF

WASHINGTON MUTUAL BANK FROM THE
FEDERAL DEPOSIT INSURANCE CORPORATION

ACTING AS RECEIVER, erroneously sued as

JPMorgan Chase, and CALIFORNIA

RECONVEYANCE COMPANY

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

JEFF GRAHAM and KIMBERLIE
GRAHAM, individuals,

Plaintiff

v.

JPMORGAN CHASE, CALIFORNIA
RECONVEYANCE COMPANY,
LAURA RYAN, and DOES 1 through
200, inclusive,

Defendants.

CASE NO.: 3:09-cv-3959-SC

**STIPULATION TO WITHDRAW
MOTION TO REMAND AND TO
FILE FIRST AMENDED
COMPLAINT**

Defendants JPMorgan Chase Bank, N.A., an acquirer of certain assets and liabilities of Washington Mutual Bank from the Federal Deposit Insurance Corporation acting as Receiver ("JPMorgan"), erroneously sued as JPMorgan Chase and California Reconveyance Company ("CRC"), and plaintiffs Jeff Graham and Kimberlie Graham ("Plaintiffs"), by and through their respective counsel, agree and stipulate as follows:

1 Plaintiffs Jeff Graham and Kimberlie Graham, and Defendants JPMorgan
 2 Chase Bank N.A. an acquirer of certain assets and liabilities of Washington Mutual
 3 Bank from the FDIC acting as Receiver ("JPMorgan") and California Reconveyance
 4 Company ("CRC") (collectively "Defendants") respectfully submit the following
 5 stipulation:

6 WHEREAS, Plaintiffs filed a Motion for Remand on September 25, 2009
 7 which is presently calendared for hearing December 4, 2009;

8 WHEREAS, Plaintiffs' Complaint states four causes of action that arise under
 9 federal law:

10 (1) fifth cause of action for "Tortious Violation of Statute Against All
 11 Defendants: Real Estate Settlement Procedures Act ("RESPA") 12 U.S.C. §2607(b)";

12 (2) ninth cause of action for "Violation of the Truth in Lending Act" (15
 13 U.S.C. § 1638; 12 CFR § 226.18) and seeks statutory damages in the sum of \$440,897
 14 pursuant to 15 U.S.C. § 1640(A)(2)(a), and actual damages in excess of \$284,800
 15 based on the violations of 15 U.S.C. § 1638 and 12 CFR § 226.18; and

16 (3) twelfth cause of action for Unfair Debt Collection Practices, including
 17 violation of the Federal Fair Debt Collections Act, 15 U.S.C. section 1692, *et seq.*;
 18 (Violation of the Truth in Lending Act);

19 WHEREAS, Plaintiffs prefer to litigate this action in Contra Costa Superior
 20 Court for the State of California;

21 WHEREAS, Defendants JPMorgan and California Reconveyance Company are
 22 amenable to litigating in Contra Costa Superior Court for the State of California those
 23 claims which arise under state law, or federal claims that are solely ancillary to claims
 24 arising under state law;

25 WHEREAS the parties have met and conferred regarding these issues and in the
 26 interest of judicial economy,

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2 NOW, THEREFORE, for good cause Plaintiffs and Defendants JPMorgan and
3 CRC stipulate and agree, through their attorneys, to the following:

4 1. Plaintiffs have until December 4, 2009 to file and serve a First Amended
5 Complaint with the Contra Costa Superior Court;

6 2. The First Amended Complaint will exclude express causes of action for
7 violations of TILA, RESPA, and the FDCPA;

8 3. Defendants will not remove the First Amended Complaint to federal
9 court provided that the First Amended Complaint excludes the above-stated causes of
10 action which arise under federal law;

11 4. Defendants will not oppose Plaintiffs' Motion to Remand currently set
12 for December 4, 2009;

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1 5. Plaintiffs will withdraw their Motion for Remand currently set for
2 hearing on December 4, 2009.

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4 **IT IS SO STIPULATED.**

5 DATED: November 13, 2009

THE LAW OFFICES OF MICHAEL
ROONEY

8 By: /s/ Michael Rooney

9 MICHAEL ROONEY
Attorneys for Plaintiffs
Jeff and Kimberlie Graham

11
12 DATED: November 13, 2009

ADORNO YOSS ALVARADO & SMITH
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14
15 By: /S/ Amy L. Morse

16 THEODORE E. BACON
PATRICK A. CATHCART
AMY L. MORSE
IMANI GANDY
Attorneys for Defendants
JPMorgan Chase Bank, N.A., an
acquirer of certain assets and liabilities
of Washington Mutual Bank from the
FDIC acting as receiver and California
Reconveyance Company

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21 **IT IS SO ORDERED.**

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23 DATED: November 17, 2009

By: 

HON. SAMUEL CONTI

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25 **IT IS FURTHER ORDERED** that if this case is not remanded to State Court prior to
26 December 4, 2009, the parties are to appear at the scheduled Case Management
Conference on December 4, 2009 at 10:00 a.m.

27
28 DATED: November 17, 2009

By: 

HON. SAMUEL CONTI